

Application No.: 10/820,798

Docket No.: 21581-00320-US1

REMARKS

Claims 1, 3, 5 and 7-9 are now in the Application. Claims 1, 3 and 5 are drawn to the elected invention identified by the Examiner as Group I. Claims 7-9 are drawn to a non-elected invention and may be canceled by the Examiner upon the allowance of the claims directed to the elected invention.

Claims 1 has been amended by incorporating recitations from claim 10. Accordingly, claim 10 has been canceled without prejudice or disclaimer. Claim 10 was not directed to an invention that was independent or distinct from that of claim 1. Instead it was directed to an invention that was within the scope of claim 1, but was more limited in including further recitations.

The specification has been amended to obviate minor errors as requested by the examiner. The amendments to the claims and specification do not introduce any new matter.

The receipt of the priority claim and Japanese priority documents filed on June 24, 2004 is hereby requested. A copy of the stamped postcard receipt and cover page are attached to this response.

Claim 1 was rejected under 35 USC 102(b) as being anticipated by JP 08-012396. JP 08-012396 does not anticipate claim 1 as amended.

Claim 1 has been amended to include recitations from claim 10. Accordingly the polycarboxylic acid cement dispersant as recited in claim 1 as amended comprise a polycarboxylic acid polymer having a constituent unit derived from a sulfonic acid group-containing monomer represented by the formula (5). On the other hand, JP 08-012396 fails to even remotely suggest or disclose a polycarboxylic acid polymer having a constituent unit derived from a sulfonic acid group-containing monomer represented by the formula (5).

Therefore, JP 08-012396 fails to anticipate the present invention. In particular, anticipation requires the disclosure, in a prior art reference, of each and every recitation as set forth in the claims. See *Titanium Metals Corp. v. Banner*, 227 USPQ 773 (Fed. Cir. 1985), *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 1 USPQ2d 1081 (Fed. Cir. 1986), and *Akzo N.V. v. U.S. International Trade Commissioner*, 1 USPQ2d 1241 (Fed. Cir. 1986).

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There must be no difference between the claimed invention and reference disclosure for an anticipation rejection under 35 U.S.C. 102. See *Scripps Clinic and Research Foundation v. Genetech, Inc.*, 18 USPQ2d 1001 (CAFC 1991) and *Studiengesellschaft Kohle GmbH v. Dart Industries*, 220 USPQ 841 (CAFC 1984).


Claim 1 was provisionally rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over the claims of copending application S.N. 10/496,141. In view of the amendment to claim 1, applicant no longer intends to file the terminal disclaimer mentioned in our prior response. In particular, claim 1 as amended is patentable over the claims of copending application S.N. 10/496,141 since, among other things, S.N. 10/496,141 does not disclose a polycarboxylic acid polymer having a constituent unit derived from a sulfonic acid group-containing monomer represented by the formula (5).

In view of the above, consideration and allowance are, therefore, respectfully solicited.

In the event the Examiner believes an interview might serve to advance the prosecution of this application in any way, the undersigned attorney is available at the telephone number noted below.

The Director is hereby authorized to charge any fees, or credit any overpayment, associated with this communication, including any extension fees, to Deposit Account No. 22-0185.

Respectfully submitted,

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